

ASSIGNMENT

I, ROBERT S. OSBAKKEN, a citizen of the United States of America, residing at 5388 Cherry Ridge Drive, Camarillo, CA 93012 (hereinafter Assignor), for good and valuable consideration, have assigned and do hereby assign to

SINUSPHARMACY.COM, INC.

a corporation organized under the laws of California, having a principal business address of 6420 Via Real Ste. 7, Carpinteria, CA 93013 (hereinafter Assignee), its successors, assigns and legal representatives, the entire right, title and interest in and to all subject matter disclosed in the U.S. Patent Application No. 09/942,959 entitled:

**AEROSOLIZED ANTI-INFECTIVES ANTI-INFLAMMATORIES, AND
DECONGESTANTS FOR THE TREATMENT OF SINUSITIS**

which was filed on August 31, 2001 and in and to all Convention and Treaty rights of all kinds, in all countries throughout the world, for all such subject matter, including the right to claim for any such foreign applications any priority rights to which such applications are entitled under international conventions, treaties or otherwise and, in and to, all Letters Patent to be obtained for said subject matter by the above application or any continuation, division, continuation-in-part, extension, conversion to 35 USC 111(b) or substitute thereof, and any reissue, reexamination or extension of said Letters Patent.

Assignor agrees to do all acts and sign all documents necessary to secure, defend and maintain all said Letters Patent and rights, including any continuations, divisionals, reissues, renewals and extensions, and request issuance of all said Letters Patent to the above Assignee in accordance with this assignment.

RECEIVED

JUN 17 2002

HELLER EHRMAN

Date: 6-7-02


Robert S. Osbakken

STATE OF CALIFORNIA)
)SS
COUNTY OF)

I hereby certify that before me, in the State of California, personally appeared ROBERT S. OSBAKKEN, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument, and acknowledge that he executed it.

WITNESS my hand and official seal.

Date: _____

Notary Public

**SEE
ATTACHMENT**

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

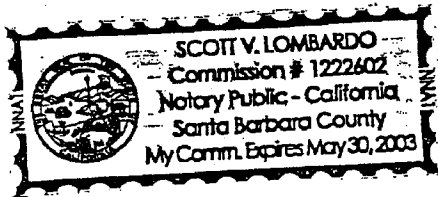
County of Santa Barbara } ss.

Scott V. Lombardo
Notary Public

On 6/7/02, before me, Robert S. Ostbakken
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")
personally appeared Robert S. Ostbakken
Name(s) of Signer(s)

☐ personally known to me
☒ proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Scott V. Lombardo
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Assignment

Number of Pages: 2

Document Date: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: _____

- ☐ Individual
- ☐ Corporate Officer — Title(s): _____
- ☐ Partner — ☐ Limited ☐ General
- ☐ Attorney in Fact
- ☐ Trustee
- ☐ Guardian or Conservator
- ☐ Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT
OF SIGNER
Top of thumb here

ASSIGNMENT

I, MARY ANNE HALE, a citizen of the United States of America, residing at 23038 Leonara Drive, Woodland Hills, CA 91367 (hereinafter Assignor), for good and valuable consideration, have assigned and do hereby assign to

SINUSPHARMAACY.COM, INC.

a corporation organized under the laws of California, having a principal business address of 6420 Via Real Ste. 7, Carpinteria, CA 93013 (hereinafter Assignee), its successors, assigns and legal representatives, the entire right, title and interest in and to all subject matter disclosed in the U.S. Patent Application No. 09/942,959 entitled:

**AEROSOLIZED ANTI-INFECTIVES ANTI-INFLAMMATORIES, AND
DECONGESTANTS FOR THE TREATMENT OF SINUSITIS**

which was filed on August 31, 2001 and in and to all Convention and Treaty rights of all kinds, in all countries throughout the world, for all such subject matter, including the right to claim for any such foreign applications any priority rights to which such applications are entitled under international conventions, treaties or otherwise and, in and to, all Letters Patent to be obtained for said subject matter by the above application or any continuation, division, continuation-in-part, extension, conversion to 35 USC 111(b) or substitute thereof, and any reissue, reexamination or extension of said Letters Patent.

Assignor agrees to do all acts and sign all documents necessary to secure, defend and maintain all said Letters Patent and rights, including any continuations, divisionals, reissues, renewals and extensions, and request issuance of all said Letters Patent to the above Assignee in accordance with this assignment.

Date:

5/30/2002

Mary Anne Hale
Mary Anne Hale

STATE OF CALIFORNIA

)

)SS

COUNTY OF

)

I hereby certify that before me, in the State of California, personally appeared MARY ANNE HALE, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument, and acknowledge that he executed it.

WITNESS my hand and official seal.

Date: _____

Notary Public

**SEE
ATTACHMENT**

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

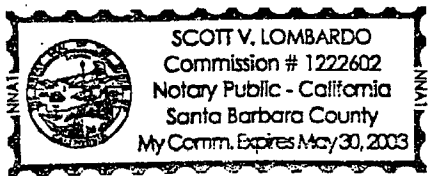
County of Santa Barbara } ss.

Scott V. Lombardo
Notary Public

On 5/30/02 before me, _____
Date Name and Title of Office (e.g., "Jane Doe, Notary Public")

personally appeared Mary Anne Hale
Name(s) of Signer(s)

- ☐ personally known to me
☒ proved to me on the basis of satisfactory evidence



to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Scott V. Lombardo
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Assignment

Document Date: _____ Number of Pages: 2

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: _____

- ☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT
OF SIGNER

Top of thumb here

ASSIGNMENT

I, FREDERICK T. LEIVO, a citizen of the United States of America, residing at 654 Oak Avenue, Carpinteria, CA 93013 (hereinafter Assignor), for good and valuable consideration, have assigned and do hereby assign to

SINUSPHARMACY.COM, INC.

a corporation organized under the laws of California, having a principal business address of 6420 Via Real Ste. 7, Carpinteria, CA 93013 (hereinafter Assignee), its successors, assigns and legal representatives, the entire right, title and interest in and to all subject matter disclosed in the U.S. Patent Application No. 09/942,959 entitled:

**AEROSOLIZED ANTI-INFECTIVES ANTI-INFLAMMATORIES, AND
DECONGESTANTS FOR THE TREATMENT OF SINUSITIS**

which was filed on August 31, 2001 and in and to all Convention and Treaty rights of all kinds, in all countries throughout the world, for all such subject matter, including the right to claim for any such foreign applications any priority rights to which such applications are entitled under international conventions, treaties or otherwise and, in and to, all Letters Patent to be obtained for said subject matter by the above application or any continuation, division, continuation-in-part, extension, conversion to 35 USC 111(b) or substitute thereof, and any reissue, reexamination or extension of said Letters Patent.

Assignor agrees to do all acts and sign all documents necessary to secure, defend and maintain all said Letters Patent and rights, including any continuations, divisionals, reissues, renewals and extensions, and request issuance of all said Letters Patent to the above Assignee in accordance with this assignment.

Date:

5/30/02

Frederick T. Leivo

Frederick T. Leivo

STATE OF CALIFORNIA

)

)SS

COUNTY OF

)

I hereby certify that before me, in the State of California, personally appeared FREDERICK T. LEIVO, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument, and acknowledge that he executed it.

WITNESS my hand and official seal.

Date:

Notary Public

**SEE
ATTACHMENT**

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Santa Barbara

ss.

Scott V. Lombardo
Notary Public

On 5/30/02
Date

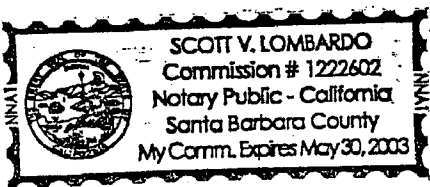
before me,

Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared

Frederick T. Leivo
Name(s) of Signer(s)

- ☐ personally known to me
☒ proved to me on the basis of satisfactory evidence



to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal

Scott V. Lombardo
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document:

Assignment

Document Date:

Number of Pages: 2

Signer(s) Other Than Named Above:

Capacity(ies) Claimed by Signer

Signer's Name:

- ☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT
OF SIGNER

Top of thumb here

ASSIGNMENT

I, James D. Munk, a citizen of the United States of America, residing at 4907 Via Cupertino, Camarillo, CA 93012 (hereinafter Assignor), for good and valuable consideration, have assigned and do hereby assign to

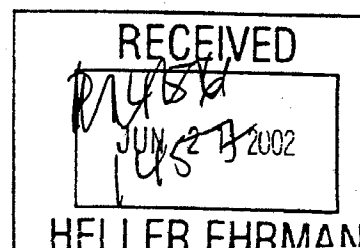
SINUSPHARMACY.COM INC.,

a corporation organized under the laws of California, having a principal business address of 6420 Via Real Ste. 7, Carpinteria, CA 93013 (hereinafter Assignee), its successors, assigns and legal representatives, the entire right, title and interest in and to all subject matter disclosed in the U.S. Patent Application No. 09/942,959 entitled:

**AEROSOLIZED ANTI-INFECTIVES ANTI-INFLAMMATORIES, AND
DECONGESTANTS FOR THE TREATMENT OF SINUSITIS**

which was filed on August 31, 2001 and in and to all Convention and Treaty rights of all kinds, in all countries throughout the world, for all such subject matter, including the right to claim for any such foreign applications any priority rights to which such applications are entitled under international conventions, treaties or otherwise and, in and to, all Letters Patent to be obtained for said subject matter by the above application or any continuation, division, continuation-in-part, extension, conversion to 35 USC 111(b) or substitute thereof, and any reissue, reexamination or extension of said Letters Patent.

Assignor agrees to do all acts and sign all documents necessary to secure, defend and maintain all said Letters Patent and rights, including any continuations, divisionals, reissues, renewals and extensions, and request issuance of all said Letters Patent to the above Assignee in accordance with this assignment.



Date:

May 30, 2002


James D. Munk

STATE OF CALIFORNIA

)

)SS

COUNTY OF

)

I hereby certify that before me, in the State of California, personally appeared JAMES D. MUNK, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument, and acknowledge that he executed it.

WITNESS my hand and official seal.

Date: _____

Notary Public

**SEE
ATTACHMENT**

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of

Santa Barbara

} ss.

Scott V. Lombardo
Notary Public

On

5/30/02
Date

, before me,

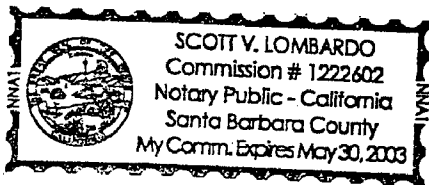
Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared

James D. Munk
Name(s) of Signer(s)

☐ personally known to me

☒ proved to me on the basis of satisfactory evidence



to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Scott V. Lombardo
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document:

Assignment

Document Date:

Number of Pages:

2

Signer(s) Other Than Named Above:

Capacity(ies) Claimed by Signer

Signer's Name:

- ☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT
OF SIGNER

Top of thumb here



SECRETARY OF STATE

I, *BILL JONES*, Secretary of State of the State of California, hereby certify:

That the attached transcript of 5 page(s) has been compared with the record on file in this office, of which it purports to be a copy, and that it is full, true and correct.



IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this day of

JUL 18 2000

Bill Jones

Secretary of State

A0548845

AMENDED & RESTATED
ARTICLES OF INCORPORATION
OF
SINUSPHARMACY.COM, INC.
a California Corporation

ENLARGED-FILED
IN THE OFFICE OF THE
SECRETARY OF STATE
OF THE STATE OF CALIFORNIA

JUL 11 2000

BILL JONES, SECRETARY OF STATE

The undersigned certify that:

1. They are the president and the secretary, respectively, of SinusPharmacy.com, Inc., a California corporation.
2. The Articles of Incorporation of this corporation are amended and restated to read as follows:

I

The name of this corporation is SinusPharmacy Inc. (the "Company").

II

The purpose of the corporation is to engage in any lawful act or activity for which a corporation may be organized under the General Corporation Law of California other than the banking business, the trust company business or the practice of a profession permitted to be incorporated by the California Corporations Code.

III

A. The Company is authorized to issue two classes of shares to be designated, respectively, "Common Stock" and "Preferred Stock." The total number of shares which the Company is authorized to issue is Thirty-Five Million (35,000,000) shares, Thirty Million (30,000,000) shares of which shall be Common Stock and Five Million (5,000,000) shares of which shall be Preferred Stock, each having no par value.

B. The Preferred Stock shall be divided into series. The first series shall consist of One Million Five Hundred Thousand (1,500,000) shares and is designated "Series A Preferred Stock." The remaining shares of Preferred Stock may be issued from time to time in one or more series. The Board of Directors of the Company is expressly authorized to provide for the issuance of all or any of the shares of the Preferred Stock in one or more series, and to fix the number of shares and to determine or alter for each such series, such voting powers, or no voting powers, and such designations, preferences, and relative, participating, optional, or other rights and such qualifications, limitations, or restrictions thereof, as shall be stated and expressed in the resolution or resolutions adopted by the Board of Directors providing for the issuance of such shares and as may be permitted by the General Corporation Law of the State of California.

C. The powers, preferences, rights, restrictions, and other matters relating to the Series A Preferred Stock are as follows:

1. Dividends. Holders of Series A Preferred Stock, in preference to the holders of Common Stock of the Company, shall be entitled to receive cash dividends at the rate of \$.25 per share (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to such shares), per annum, payable out of funds legally available therefore. Such dividends shall be payable only when, as, and if declared by the Board of Directors of the Company and shall be non-cumulative. Except as otherwise provided herein, no right shall accrue to holders of Series A Preferred Stock by reason of the fact that dividends on said shares were not declared in any prior year, nor shall any undeclared or unpaid dividend bear or accrue any interest. No dividends shall be paid on any Common Stock of the Company during any fiscal year of the Company until dividends in the amount of \$.25 per share (as adjusted for any stock dividends, combinations or splits with respect to such shares) shall have been paid or declared and set apart during the fiscal year, and no dividends shall be paid on any share of Common Stock unless a dividend (including any amount of dividends paid pursuant to this Section 1) is paid with respect to all outstanding shares of Series A Preferred Stock in an amount equal to or greater than the aggregate amount of such dividends for all shares of Common Stock into which each such share of Series A Preferred Stock could then be converted.

2. Voting Rights. Each holder of Series A Preferred Stock shall be entitled to the number of votes required by law. Each holder of Common Stock shall be entitled to one vote per share of Common Stock held.

3. Conversion Rights. The holders of the Series A Preferred Stock shall have conversion rights as follows:

(a) Conversion Rights and Automatic Conversion.

(i) Each share of Series A Preferred Stock shall be convertible, at the option of the holder thereof, at any time after the date of issuance of such share, at the office of this Company or any transfer agent for the Series A Preferred Stock, into such number of fully paid and nonassessable shares of Common Stock as is determined by dividing \$1.00 by the Series A Conversion Price (as defined below) at the time in effect for such share. The "Series A Conversion Price" shall initially be \$1.00. Such initial Series A Conversion Price shall be subject to adjustment as set forth in Section 4.

(ii) Each share of Series A Preferred Stock shall automatically be converted into shares of Common Stock at the Series A Conversion Price at the time in effect for such Series A Preferred Stock: (a) Immediately upon the consummation of the Company's sale of its Common Stock in a bona fide, firm commitment underwriting pursuant to a registration statement on Form S-1 under the Securities Act of 1933, as amended (or any equivalent successor form); or (b) upon the approval of the holders of not less than a majority of the then outstanding Series A Preferred Stock.

(iii) Upon conversion of any Series A Preferred Stock, no payment or adjustment shall be made on account of dividends, accrued and unpaid if any, on the Series A Preferred Stock.

(b) Mechanics of Conversion. Before any holder of Series A Preferred Stock shall be entitled to convert the same into shares of Common Stock, he shall surrender the certificate or certificates therefor, duly endorsed, at the office of the Company or of any transfer agent for the Series A Preferred Stock, and shall give written notice by mail, postage prepaid, to the Company at its principal corporate office, of the election to convert the same and shall state therein the name or names in which the certificate or certificates for shares of Common Stock are to be issued. The Company shall, as soon as practicable thereafter, issue and deliver at such office to such holder of Series A Preferred Stock, or to the nominee or nominees or such holder, a certificate or certificates for the number of whole shares of Common Stock to which such holder shall be entitled as aforesaid. Such conversion shall be deemed to have been made immediately prior to the close of business on the date of such surrender of the shares of Series A Preferred Stock to be converted, and the person or persons entitled to receive the shares of Common Stock issuable upon such conversion shall be treated for all purposes as the record holder or holders of such shares of Common Stock as of such date. If the conversion is in connection with an underwritten offer of securities registered pursuant to the Securities Act of 1933, the conversion may, at the option of any holder tendering Series A Preferred Stock for conversion, be conditioned upon the closing with the underwriter of the sale of securities pursuant to such offering, in which event the person(s) entitled to receive the Common Stock issuable upon such conversion of the Series A Preferred Stock shall not be deemed to have converted such Series A Preferred Stock until immediately prior to the closing of such sale of securities.

(c) Consolidation or Merger. In case of the consolidation or merger of the Company with or into another corporation or entity (other than a merger not involving any reclassification, conversion or exchange of outstanding Common Stock in which the Company is the surviving corporation), or in case of the sale, transfer or other disposition of all or substantially all of the property, assets or business of the Company as a result of which sale, transfer or other disposition, property other than cash shall be payable or distributable to the holders of the Common Stock, each share of Series A Preferred Stock shall thereafter be convertible into the number and class or series of shares or other securities or property of the Company, or of the Company resulting from such consolidation or merger or to which such sale, transfer or other disposition shall have been made, to which the Common Stock otherwise issuable upon conversion of such share of Series A Preferred Stock would have been entitled upon such reorganization, consolidation, merger or sale, transfer or other disposition if outstanding at the time thereof; and in any such case appropriate adjustment, as determined by the board of directors, shall be made in the application of the provisions set forth in this Section 3 with respect to the conversion rights thereafter of the holders of the Series A Preferred Stock. Proper provision shall be made as a part of the terms of any such consolidation, merger, sale, transfer or other disposition whereby the conversion rights of the holders of Series A Preferred Stock shall be protected and preserved in accordance with the provisions of this Section 3.

(d) Reservation of Shares. The Company shall at all times reserve and keep available, out of its authorized but unissued Common Stock, for the purpose of enabling it to set aside shares to satisfy any obligation to issue shares of Common Stock upon conversion of Series

09/05/00 11:17 FAX 213 612 1335 MORGAN, LEWIS & LA (8) WASHINGTON 2000

A Preferred Stock, such number of shares of Common Stock as shall then be issuable upon the conversion of all outstanding shares of Series A Preferred Stock.

4. Adjustment of Number of Shares Issuable Upon Conversion and the Conversion Price. The number of shares issuable upon conversion and the Series A Conversion Price subject to adjustment by the Company from time to time upon the occurrence of the events enumerated in this Section 4: If the Company (i) pays a dividend or makes a distribution on its Common Stock in shares of its Common Stock, (ii) subdivides its outstanding shares of Common Stock into a greater number of shares, (iii) combines its outstanding shares of Common Stock into a smaller number of shares, (iv) makes a distribution on its Common Stock in shares of its capital stock other than Common Stock or (v) issues by reclassification of its Common Stock any shares of its capital stock, then the Conversion Price in effect immediately prior to such action shall be proportionately adjusted so that each holder of shares of Series A Preferred Stock may receive the aggregate number and kind of shares of capital stock of the Company which such holder would have owned immediately following such action if he had converted all of his shares of Series A Preferred Stock into Common Stock immediately prior to such action. The adjustment shall become effective immediately after the record date in the case of a dividend or distribution and immediately after the effective date in the case of a subdivision, combination or reclassification.

5. Liquidation Preference. In the event of any liquidation, dissolution or winding up of the affairs of the Company, whether voluntary or involuntary, after payment or provision for payment of the debts and other liabilities of the Company, the holders of shares of Series A Preferred Stock shall be entitled to receive, out of the assets of the Company, \$1.00 per share before any distribution shall be made to the holders of the Common Stock. After payment in full of the foregoing liquidation preference, the remaining assets of the Company available for distribution to stockholders shall be distributed to the other stockholders as their respective interests may appear.

IV

The liability of the directors of this corporation for monetary damages shall be eliminated to the fullest extent permissible under California law.

V

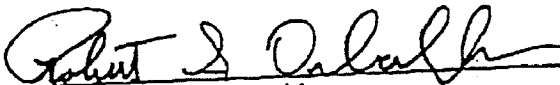
This corporation is authorized to provide indemnification of agents (as defined in Section 317 of the California Corporations Code) through bylaw provisions, agreements with agents, vote of shareholders or disinterested directors or otherwise, in excess of the indemnification otherwise permitted by Section 317 of the California Corporations Code, subject only to the applicable limits set forth in Section 204 of the California Corporations Code with respect to actions for breach of duty to the corporation and its shareholders.

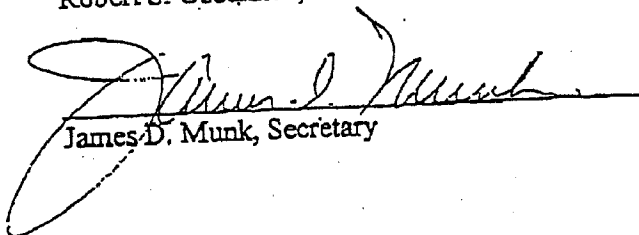
3. The foregoing amendment and restatement of Articles of Incorporation has been duly approved by the board of directors.

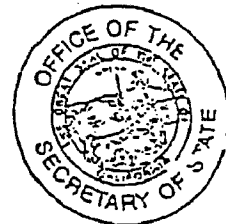
4. The foregoing amendment and restatement of Articles of Incorporation has been duly approved by the required vote of shareholders in accordance with Section 902, California Corporations Code. The total number of outstanding shares of the corporation is 12,520,000. The number of shares voting in favor of the amendment equaled or exceeded the vote required. The percentage vote required was more than 50%. There are no outstanding shares of Series A.

We further declare under penalty of perjury under the laws of the State of California that the matters set forth in this certificate are true and correct of our own knowledge.

DATE: 7-5-2000


Robert S. Osbakken, President


James D. Munk, Secretary



AMENDED & RESTATED
ARTICLES OF INCORPORATION
OF
SINUSPHARMACY INC.
a California Corporation

ENDORSED - FILED
In the office of the Secretary of State
of the State of California

FEB 04 2002

BILL JONES, Secretary of State

The undersigned certify that:

1. They are the president and the secretary, respectively, of SINUSPHARMACY INC., a California corporation.
2. The Articles of Incorporation of this corporation are amended and restated to read as follows:

I

The name of this corporation is SINUSPHARMA, INC. (the "Company").

II

The purpose of the corporation is to engage in any lawful act or activity for which a corporation may be organized under the General Corporation Law of California other than the banking business, the trust company business or the practice of a profession permitted to be incorporated by the California Corporations Code.

III

A. The Company is authorized to issue two classes of shares to be designated, respectively, "Common Stock" and "Preferred Stock." The total number of shares which the Company is authorized to issue is Thirty-Five Million (35,000,000) shares, Thirty Million (30,000,000) shares of which shall be Common Stock and Five Million (5,000,000) shares of which shall be Preferred Stock, each having no par value.

B. The Preferred Stock shall be divided into series. The first series shall consist of One Million Five Hundred Thousand (1,500,000) shares and is designated "Series A Preferred Stock." The second series shall consist of Three Million Five Hundred Thousand (3,500,000) shares and is designated "Series B Preferred Stock." The remaining shares of Preferred Stock may be issued from time to time in one or more series. The Board of Directors of the Company is expressly authorized to provide for the issuance of all or any of the shares of the Preferred Stock in one or more series, and to fix the number of shares and to determine or alter for each such series, such voting powers, or no voting powers, and such designations, preferences, and relative, participating, optional, or other rights and such qualifications, limitations, or restrictions thereof, as shall be stated and expressed in the resolution or resolutions adopted by the Board of Directors providing for the issuance of such shares and as may be permitted by the General Corporation Law of the State of California.

C. The powers, preferences, rights, restrictions, and other matters relating to the Series A Preferred Stock are as follows:

1. Dividends. Holders of Series A Preferred Stock, in preference to the holders of Series B Preferred Stock and Common Stock of the Company, shall be entitled to receive cash dividends at the rate of \$.25 per share (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to such shares), per annum, payable out of funds legally available therefore. Such dividends shall be payable only when, as, and if declared by the Board of Directors of the Company and shall be non-cumulative. Except as otherwise provided herein, no right shall accrue to holders of Series A Preferred Stock by reason of the fact that dividends on said shares were not declared in any prior year, nor shall any undeclared or unpaid dividend bear or accrue any interest. No dividends shall be paid on any Series B Preferred Stock or Common Stock of the Company during any fiscal year of the Company until dividends in the amount of \$.25 per share (as adjusted for any stock dividends, combinations or splits with respect to such shares) shall have been paid or declared and set apart during the fiscal year, and no dividends shall be paid on any share of Series B Preferred Stock or Common Stock unless a dividend (including any amount of dividends paid pursuant to this Section 1) is paid with respect to all outstanding shares of Series A Preferred Stock in an amount equal to or greater than the aggregate amount of such dividends for all shares of Common Stock into which each such share of Series A Preferred Stock could then be converted.

2. Voting Rights. Except as expressly required by law or as required by law, the Series A Preferred Stock shareholders shall have the same voting rights as the holders of the Common Stock and shall be entitled to notice of any shareholders' meeting in accordance with the Bylaws of the Corporation, and the holders of Common Stock, Series A Preferred Stock, and Series B Preferred Stock shall vote together as a single class on all matters. Each holder of Common Stock shall be entitled to one vote for each share of Common Stock held, and each holder of Series A Preferred Stock shall be entitled to one vote for each share of Series A Preferred Stock.

3. Conversion Rights. The holders of the Series A Preferred Stock shall have conversion rights as follows:

(a) Conversion Rights and Automatic Conversion.

(i) Each share of Series A Preferred Stock shall be convertible, at the option of the holder thereof, at any time after the date of issuance of such share, at the office of this Company or any transfer agent for the Series A Preferred Stock, into such number of fully paid and nonassessable shares of Common Stock as is determined by dividing \$1.00 by the Series A Preferred Stock Conversion Price (as defined below) at the time in effect for such share. The "Series A Conversion Price" shall initially be \$1.00. Such initial Series A Conversion Price shall be subject to adjustment as set forth in Section 4.

(ii) Each share of Series A Preferred Stock shall automatically

be converted into shares of Common Stock at the Series A Conversion Price at the time in effect for such Series A Preferred Stock: (a) Immediately upon the consummation of the Company's sale of its Common Stock in a bona fide, firm commitment underwriting pursuant to a registration statement on Form S-1 under the Securities Act of 1933, as amended (or any equivalent successor form); or (b) upon the approval of the holders of not less than a majority of the then outstanding Series A Preferred Stock.

(iii) Upon conversion of any Series A Preferred Stock, no payment or adjustment shall be made on account of dividends, accrued and unpaid if any, on the Series A Preferred Stock.

(b) Mechanics of Conversion. Before any holder of Series A Preferred Stock shall be entitled to convert the same into shares of Common Stock, he shall surrender the certificate or certificates therefor, duly endorsed, at the office of the Company or of any transfer agent for the Series A Preferred Stock, and shall give written notice by mail, postage prepaid, to the Company at its principal corporate office, of the election to convert the same and shall state therein the name or names in which the certificate or certificates for shares of Common Stock are to be issued. The Company shall, as soon as practicable thereafter, issue and deliver at such office to such holder of Series A Preferred Stock, or to the nominee or nominees or such holder, a certificate or certificates for the number of whole shares of Common Stock to which such holder shall be entitled as aforesaid. Such conversion shall be deemed to have been made immediately prior to the close of business on the date of such surrender of the shares of Series A Preferred Stock to be converted, and the person or persons entitled to receive the shares of Common Stock issuable upon such conversion shall be treated for all purposes as the record holder or holders of such shares of Common Stock as of such date. If the conversion is in connection with an underwritten offer of securities registered pursuant to the Securities Act of 1933, the conversion may, at the option of any holder tendering Series A Preferred Stock for conversion, be conditioned upon the closing with the underwriter of the sale of securities pursuant to such offering, in which event the person (s) entitled to receive the Common Stock issuable upon such conversion of the Series A Preferred Stock shall not be deemed to have converted such Series A Preferred Stock until immediately prior to the closing of such sale of securities.

(c) Consolidation or Merger. In case of the consolidation or merger of the Company with or into another corporation or entity (other than a merger not involving any reclassification, conversion or exchange of outstanding Common Stock in which the Company is the surviving corporation), or in case of the sale, transfer or other disposition of all or substantially all of the property, assets or business of the Company as a result of which sale, transfer or other disposition, property other than cash shall be payable or distributable to the holders of the Common Stock, each share of Series A Preferred Stock shall thereafter be convertible into the number and class or series of shares or other securities or property of the Company, or of the Company resulting from such consolidation or merger or to which such sale, transfer or other disposition shall have been made, to which the Common Stock otherwise issuable upon conversion of such share of Series A Preferred Stock would have been entitled upon such reorganization,

consolidation, merger or sale, transfer or other disposition if outstanding at the time thereof; and in any such case appropriate adjustment, as determined by the board of directors, shall be made in the application of the provisions set forth in this Section 3 with respect to the conversion rights thereafter of the holders of the Series A Preferred Stock. Proper provision shall be made as a part of the terms of any such consolidation, merger, sale, transfer or other disposition whereby the conversion rights of the holders of Series A Preferred Stock shall be protected and preserved in accordance with the provisions of this Section 3.

(d) Reservation of Shares. The Company shall at all times reserve and keep available, out of its authorized but unissued Common Stock, for the purpose of enabling it to set aside shares to satisfy any obligation to issue shares of Common Stock upon conversion of Series A Preferred Stock, such number of shares of Common Stock as shall then be issuable upon the conversion of all outstanding shares of Series A Preferred Stock.

4. Adjustment of Number of Shares Issuable Upon Conversion and the Conversion Price. The number of shares issuable upon conversion and the Series A Conversion Price subject to adjustment by the Company from time to time upon the occurrence of the events enumerated in this Section 4. If the Company (i) pays a dividend or makes a distribution on its Common Stock in shares of its Common Stock, (ii) subdivides its outstanding shares of Common Stock into a greater number of shares, (iii) combines its outstanding shares of Common Stock into a smaller number of shares, (iv) makes a distribution on its Common Stock in shares of its capital stock other than Common Stock or (v) issues by reclassification of its Common Stock any shares of its capital stock, then the Conversion Price in effect immediately prior to such action shall be proportionately adjusted so that each holder of shares of Series A Preferred Stock may receive the aggregate number and kind of shares of capital stock of the Company which such holder would have owned immediately following such action if he had converted all of his shares of Series A Preferred Stock into Common Stock immediately prior to such action. The adjustment shall become effective immediately after the record date in the case of a dividend or distribution and immediately after the effective date in the case of a subdivision, combination or reclassification.

5. Liquidation Preference. In the event of any liquidation, dissolution or winding up of the affairs of the Company, whether voluntary or involuntary, after payment or provision for payment of the debts and other liabilities of the Company, the holders of shares of Series A Preferred Stock shall be entitled to receive, out of the assets of the Company, \$1.00 per share before any distribution shall be made to the holders of the Series B Preferred Stock or Common Stock. After payment in full of the foregoing liquidation preference, the remaining assets of the Company available for distribution to stockholders shall be distributed to the other stockholders as their respective interests may appear.

D. The powers, preferences, rights, restrictions, and other matters relating to the Series B Preferred Stock are as follows:

1. Dividends. Holders of Series B Preferred Stock, in preference to the holders of Common Stock of the Company, shall be entitled to receive cash dividends at the rate of \$.25 per share (as adjusted for any stock dividends, combinations, splits, recapitalizations and the like with respect to such shares), per annum, payable out of funds legally available therefore. Such dividends shall be payable only when, as, and if declared by the Board of Directors of the Company and shall be non-cumulative. Except as otherwise provided herein, no right shall accrue to holders of Series B Preferred Stock by reason of the fact that dividends on said shares were not declared in any prior year, nor shall any undeclared or unpaid dividend bear or accrue any interest. No dividends shall be paid on any Common Stock of the Company during any fiscal year of the Company until dividends in the amount of \$.25 per share (as adjusted for any stock dividends, combinations or splits with respect to such shares) shall have been paid or declared and set apart during the fiscal year, and no dividends shall be paid on any share of Common Stock unless a dividend (including any amount of dividends paid pursuant to this Section 1) is paid with respect to all outstanding shares of Series B Preferred Stock in an amount equal to or greater than the aggregate amount of such dividends for all shares of Common Stock into which each such share of Series B Preferred Stock could then be converted.

2. Voting Rights. Except as expressly required by law or as required by law, the Series B Preferred Stockholders shall have the same voting rights as the holders of the Common Stock and shall be entitled to notice of any shareholders' meeting in accordance with the Bylaws of the Corporation, and the holders of Common Stock, Series A Preferred Stock, and Series B Preferred Stock shall vote together as a single class on all matters. Each holder of Common Stock shall be entitled to one vote for each share of Common Stock held, and each holder of Series B Preferred Stock shall be entitled to one vote for each share of Series B.

3. Conversion Rights. The holders of the Series B Preferred Stock shall have conversion rights as follows:

(a) Conversion Rights and Automatic Conversion.

(i) Each share of Series B Preferred Stock shall be convertible, at the option of the holder thereof, at any time after the date of issuance of such share, at the office of this Company or any transfer agent for the Series B Preferred Stock, into such number of fully paid and nonassessable shares of Common Stock as is determined by dividing \$1.00 by the Series B Preferred Stock Conversion Price (as defined below) at the time in effect for such share. The "Series B Conversion Price" shall initially be \$1.00. Such initial Series B Conversion Price shall be subject to adjustment as set forth in Section 4.

(ii) Each share of Series B Preferred Stock shall automatically be converted into shares of Common Stock at the Series B Conversion Price at the time in effect for such Series B Preferred Stock: (a) Immediately upon the consummation of the Company's sale of its Common Stock in a bona fide, firm commitment underwriting pursuant to a registration statement on Form S-1 under the Securities Act of 1933, as amended (or any equivalent successor form); or (b) upon the approval of the holders of

not less than a majority of the then outstanding Series B Preferred Stock.

(iii) Upon conversion of any Series B Preferred Stock, no payment or adjustment shall be made on account of dividends, accrued and unpaid if any, on the Series B Preferred Stock.

(b) Mechanics of Conversion. Before any holder of Series B Preferred Stock shall be entitled to convert the same into shares of Common Stock, he shall surrender the certificate or certificates therefor, duly endorsed, at the office of the Company or of any transfer agent for the Series B Preferred Stock, and shall give written notice by mail, postage prepaid, to the Company at its principal corporate office, of the election to convert the same and shall state therein the name or names in which the certificate or certificates for shares of Common Stock are to be issued. The Company shall, as soon as practicable thereafter, issue and deliver at such office to such holder of Series B Preferred Stock, or to the nominee or nominees or such holder, a certificate or certificates for the number of whole shares of Common Stock to which such holder shall be entitled as aforesaid. Such conversion shall be deemed to have been made immediately prior to the close of business on the date of such surrender of the shares of Series B Preferred Stock to be converted, and the person or persons entitled to receive the shares of Common Stock issuable upon such conversion shall be treated for all purposes as the record holder or holders of such shares of Common Stock as of such date. If the conversion is in connection with an underwritten offer of securities registered pursuant to the Securities Act of 1933, the conversion may, at the option of any holder tendering Series B Preferred Stock for conversion, be conditioned upon the closing with the underwriter of the sale of securities pursuant to such offering, in which event the person (s) entitled to receive the Common Stock issuable upon such conversion of the Series B Preferred Stock shall not be deemed to have converted such Series B Preferred Stock until immediately prior to the closing of such sale of securities.

(c) Consolidation or Merger. In case of the consolidation or merger of the Company with or into another corporation or entity (other than a merger not involving any reclassification, conversion or exchange of outstanding Common Stock in which the Company is the surviving corporation), or in case of the sale, transfer or other disposition of all or substantially all of the property, assets or business of the Company as a result of which sale, transfer or other disposition, property other than cash shall be payable or distributable to the holders of the Common Stock, each share of Series B Preferred Stock shall thereafter be convertible into the number and class or series of shares or other securities or property of the Company, or of the Company resulting from such consolidation or merger or to which such sale, transfer or other disposition shall have been made, to which the Common Stock otherwise issuable upon conversion of such share of Series B Preferred Stock would have been entitled upon such reorganization, consolidation, merger or sale, transfer or other disposition if outstanding at the time thereof, and in any such case appropriate adjustment, as determined by the board of directors, shall be made in the application of the provisions set forth in this Section 3 with respect to the conversion rights thereafter of the holders of the Series B Preferred Stock. Proper provision shall be made as a part of the terms of any such consolidation, merger, sale, transfer or other disposition whereby the conversion rights of the holders of Series B

Preferred Stock shall be protected and preserved in accordance with the provisions of this Section 3.

(d) Reservation of Shares. The Company shall at all times reserve and keep available, out of its authorized but unissued Common Stock, for the purpose of enabling it to set aside shares to satisfy any obligation to issue shares of Common Stock upon conversion of Series B Preferred Stock, such number of shares of Common Stock as shall then be issuable upon the conversion of all outstanding shares of Series B Preferred Stock.

4. Adjustment of Number of Shares Issuable Upon Conversion and the Conversion Price. The number of shares issuable upon conversion and the Series B Conversion Price subject to adjustment by the Company from time to time upon the occurrence of the events enumerated in this Section 4. If the Company (i) pays a dividend or makes a distribution on its Common Stock in shares of its Common Stock, (ii) subdivides its outstanding shares of Common Stock into a greater number of shares, (iii) combines its outstanding shares of Common Stock into a smaller number of shares, (iv) makes a distribution on its Common Stock in shares of its capital stock other than Common Stock or (v) issues by reclassification of its Common Stock any shares of its capital stock, then the Conversion Price in effect immediately prior to such action shall be proportionately adjusted so that each holder of shares of Series B Preferred Stock may receive the aggregate number and kind of shares of capital stock of the Company which such holder would have owned immediately following such action if he had converted all of his shares of Series B Preferred Stock into Common Stock immediately prior to such action. The adjustment shall become effective immediately after the record date in the case of a dividend or distribution and immediately after the effective date in the case of a subdivision, combination or reclassification.

5. Liquidation Preference. In the event of any liquidation, dissolution or winding up of the affairs of the Company, whether voluntary or involuntary, after payment or provision for payment of the debts and other liabilities of the Company, the holders of shares of Series B Preferred Stock shall be entitled to receive, out of the assets of the Company, \$1.00 per share before any distribution shall be made to the holders of the Common Stock. After payment in full of the foregoing liquidation preference, the remaining assets of the Company available for distribution to stockholders shall be distributed to the other stockholders as their respective interests may appear.

IV

The liability of the directors of this corporation for monetary damages shall be eliminated to the fullest extent permissible under California law.

V

This corporation is authorized to provide indemnification of agents (as defined in Section 317 of the California Corporations Code) through bylaw provisions, agreements with agents, vote of shareholders or disinterested directors or otherwise, in excess of the

indemnification otherwise permitted by Section 317 of the California Corporations Code, subject only to the applicable limits set forth in Section 204 of the California Corporations Code with respect to actions for breach of duty to the corporation and its shareholders.

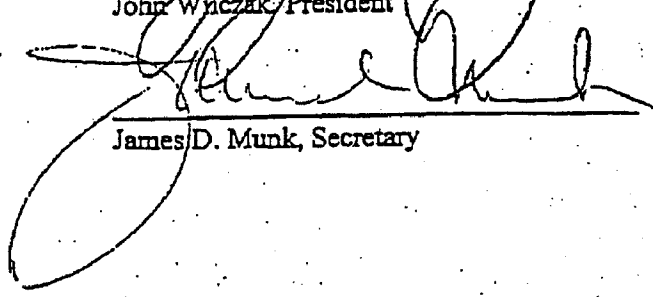
3. The foregoing amendment and restatement of Articles of Incorporation has been duly approved by the board of directors.

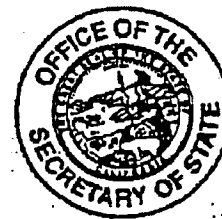
4. The Articles of Incorporation amendments as included in the Amended and Restated Articles of Incorporation (other than omissions required by Section 910 of the California Corporations Code) have been duly approved by the required vote of shareholders in accordance with Section 902 and 903 of the California Corporations Code. The Corporation has two classes of stock outstanding, Common Stock and Series A Preferred Stock and Series B Preferred Stock, which are entitled to vote with respect to the amendments set forth in these restated articles. The number of outstanding shares of Common Stock is 11,091,492, of Series A is 519,000, and of Series B is 2,499,500. The number of shares voting in favor of the amendment, with the Common Stock, Series A Preferred Stock, and Series B Preferred Stock voting separately as classes, equaled or exceeded the vote required. The percentage vote required for the approval of the amendments set forth was (a) more than 50% of all outstanding Common Stock, and (b) more than 50% of Series A Preferred Stock and Series B, each voting separately as a class.

We further declare under penalty of perjury under the laws of the State of California that the matters set forth in this certificate are true and correct of our own knowledge.

Date: January 31, 2002


John Winczak, President


James D. Munk, Secretary



S:\Unwincor File\unmend.ar\1027.rv1.wpd
1/31/02

State of California
Secretary of State



I, Cathy Mitchell, Acting Secretary of State of the State of California, hereby certify:

That the attached transcript of 1 page(s) was prepared by and in this office from the record on file, of which it purports to be a copy, and that it is full, true and correct.

IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this day of

MAR 17 2005



Cathy Mitchell
CATHY MITCHELL
Acting Secretary of State

ENDORSED - FILED
In the office of the Secretary of State
of the State of California

MAR 16 2005

**CERTIFICATE OF AMENDMENT TO THE
AMENDED AND RESTATED ARTICLES OF INCORPORATION OF
SINUSPHARMA, INC.**

The undersigned, Robin Campbell and James D. Munk, hereby certify that:

1. They are the duly elected and acting President and Secretary, respectively, of SinusPharma, Inc., a California corporation.

2. Article I of the Amended and Restated Articles of Incorporation of this corporation is amended to read as follows:

"The name of this corporation is Naryx Pharma, Inc."

3. The foregoing Amendment of the Amended and Restated Articles of Incorporation has been duly approved by the board of directors of this corporation.

4. The foregoing Amendment of the Amended and Restated Articles of Incorporation has been duly approved by the required vote of shareholders in accordance with Sections 902 and 903 of the California Corporations Code. The total number of outstanding shares entitled to vote with respect to the foregoing Amendment was 16,341,811 shares of Common Stock, 254,000 shares of Series A Preferred Stock and 3,385,500 shares of Series B Preferred Stock, of the corporation. The number of shares voting in favor of the Certificate of Amendment to the Restated Articles of Incorporation equaled or exceeded the vote required. The percentage vote required was a majority of the outstanding shares of Common Stock and Preferred Stock voting together as a single class.

The undersigned further declare under penalty of perjury under the laws of the State of California that the matters set forth in the foregoing certificate are true and correct to their knowledge.

Dated: Feb 8, 2005


Robin Campbell, President


James D. Munk, Secretary

